

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

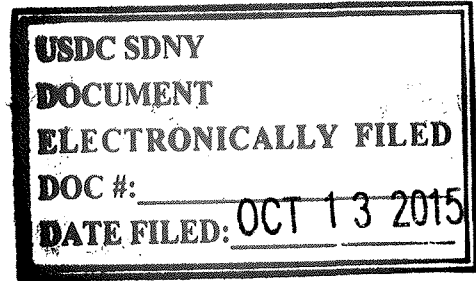
Ezekiel Frederick,

Plaintiff,

—v—

Capital One (USA) N.A. *et al.*,

Defendant.



14-CV-5460 (AJN)

ORDER

ALISON J. NATHAN, District Judge:

On September 21, 2015, the Court ordered Plaintiff to show cause in writing as to why the claims against the Defendants who had not yet been served (Verizon Wireless, Consolidated Edison, Equifax Inc., and J. Brandon Black) should not be dismissed. *See* Dkt. No. 103. On October 9, 2015, Plaintiff submitted a letter indicating that he had requested Issuance of Summons on January 15, 2015 as to Defendants Verizon Wireless and Equifax Inc., but that no such summons was ever issued by the Clerk of the Court. *See* Dkt. No. 73, 116. Plaintiff provided no explanation for the failure to serve J. Brandon Black. *See* Dkt. No. 116. Plaintiff further indicated that he was withdrawing his action against Consolidated Edison. *See* Dkt. No. 116.

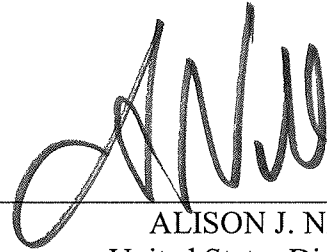
Federal Rule of Civil Procedure 4(m) provides that “[i]f a defendant is not served within 120 days after the complaint is filed, the court . . . must dismiss the action without prejudice against that defendant.” Fed. R. Civ. P. 4(m). A district court may dismiss under Rule 4(m) after Plaintiff is given notice and an opportunity to “provide[] good cause for . . . failure to serve process.” *Thompson v. Maldonado*, 309 F.3d 107, 110 (2d Cir. 2002). Plaintiff’s Second Amended Complaint was filed on October 15, 2014, *see* Dkt. No. 22, and the above-named Defendants have still not been served. While Plaintiff has provided good cause as to why

Verizon Wireless and Equifax Inc. have not been served, he has failed to do so with regard to J. Brandon Black.

As a result, Plaintiff's claims against J. Brandon Black are dismissed without prejudice pursuant to Federal Rule of Civil Procedure 4(m). Furthermore, Plaintiff's claims against Consolidated Edison are dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2). The Clerk of the Court is ordered to issue summons as to Defendants Verizon Wireless and Equifax Inc., and Plaintiff is ordered to serve those Defendants on or before December 18, 2015.

SO ORDERED.

Dated: October 17, 2015
New York, New York

A handwritten signature in dark ink, appearing to read 'Alison J. Nathan', is written over a horizontal line.

ALISON J. NATHAN
United States District Judge